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TRANSMITTAL FORM  (to be used for all correspondence during pendency of filed application)			Filing Date			December 10, 2003	
			First Named Inventor			Mark Pearson	
			Group Art Unit Number			2163	
			Exa	mine	r Name	Helene Ro	berta Rose
Total Number of Pag	es in This Submission	18	Atto	orney	Docket Number	24207-100	64
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Attorney/Reg. No.:	Brenda M. Simon, Reg. No. 48,449					Dated:	10/4/06
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from custody.<sup>1</sup> <u>See</u> Dkt. # 14, Ex. 1. As a result, Respondent asserts that Petitioner's request for habeas corpus relief has been rendered moot and requests that this action be dismissed. <u>See</u> Dkt. # 14.

## **ANALYSIS**

"Article III of the United States Constitution only extends federal judicial power to cases or controversies." <u>United States v. Meyers</u>, 200 F.3d 715, 718 (10th Cir. 2000). "A habeas corpus petition is moot when it no longer presents a case or controversy under Article III, § 2, of the Constitution." <u>Aragon v. Shanks</u>, 144 F.3d 690, 691 (10th Cir. 1998). To satisfy the case or controversy requirement, the petitioner "must have suffered or be threatened with an actual injury traceable to the respondents and likely to be redressed by a favorable judicial decision." <u>Spencer v. Kemna</u>, 523 U.S. 1, 7 (1998) (quoting <u>Lewis v. Continental Bank Corp.</u>, 494 U.S. 472, 477 (1990)). A § 2241 habeas proceeding is generally "an attack by a person in custody upon the legality of that custody, and . . . the traditional function of the writ is to secure release from illegal custody." <u>McIntosh v. United States Parole Comm'n</u>, 115 F.3d 809, 811 (10th Cir. 1997) (quoting <u>Preiser v. Rodriquez</u>, 411 U.S. 475, 484 (1973)).

The relevant inquiry in this case is whether Petitioner is subject to collateral consequences adequate to meet the injury-in-fact requirement of Article III. Spencer, 523 U.S. at 7; see also Gille v. Booher, No. 00-6106, 2000 WL 1174612 (10th Cir. Aug. 18, 2000) (unpublished). Petitioner must "continue to have a personal stake in the outcome" of his case in order to satisfy the case or

The Court notes that Respondent sent a copy of the notice to Petitioner at the forwarding address provided on the Department of Corrections Certificate of Release. <u>See</u> Dkt. # 14, Ex. 1.

controversy requirement of Article III. Spencer, 523 U.S. at 7. In his petition, Petitioner makes no

challenge to the fact of his incarceration. His habeas corpus challenge is limited to seeking

reinstatement of sentence credits earned during his term of incarceration. Because Petitioner has

been released from incarceration, "his incarceration 'cannot be undone." Gille, 2000 WL 1174612,

at \*1 (quoting Spencer, 523 U.S. at 7-8). Therefore, this case is most unless a favorable decision

from the Court would serve to redress an actual injury sustained by Petitioner.

Under the facts of this case, Petitioner cannot demonstrate a concrete and continuing injury

now that he has been released from imprisonment. As a result, there is nothing for this Court to

remedy. Spencer, 523 U.S. at 7. The Court concludes that Petitioner's request for habeas corpus

relief has been rendered moot by his release from incarceration. The 28 U.S.C. § 2241 petition for

writ of habeas corpus shall be dismissed as moot.

**ACCORDINGLY, IT IS HEREBY ORDERED** that:

1. The 28 U.S.C. § 2241 petition for writ of habeas corpus (Dkt. # 1) is **dismissed as moot**.

2. The Clerk of Court shall change Petitioner's address to Brandon Mason, 3215 West N Ave.,

Ponca City, OK 74601.

3. This is a final order terminating this action.

**DATED** this 11th day of April, 2011.

CLAIRE V. EAGAN, CHIEF JUDGE

UNITED STATES DISTRICT COURT

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